

**BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

IN THE MATTER OF THE)
EQUALIZATION OF VALUE)
OF REAL PROPERTY WITHIN)
BANNER COUNTY, NEBRASKA,)
FOR TAX YEAR 2008)

**COUNTY NUMBER 4
FINDINGS AND ORDERS
ADJUSTING VALUES**

APPEARANCES FOR THE COUNTY:

Sharon Sandberg
Banner County Assessor
PO Box 67
Harrisburg, NE 69345

SUMMARY

The Tax Equalization and Review Commission, as part of its equalization proceedings held pursuant to Neb. Const. art. IV, §28; Neb. Rev. Stat. §77-5022 *et. seq.*, (Reissue 2003, Cum. Supp. 2006, and Supp. 2007) finds that the level of value of certain real property in Banner County for tax year 2008, fails to satisfy the requirements of Neb. Const. art. VIII, §1, and Neb. Rev. Stat. §77-5023(2) (Supp. 2007). The Commission therefore orders an adjustment to the value of certain real property within Banner County.

**I.
REPORT AND OPINION
OF THE PROPERTY TAX ADMINISTRATOR**

Banner County (“County”), as required by Neb. Rev. Stat. §77-1514 (Cum. Supp. 2006), timely filed its Abstract of Assessment for 2008. The Property Tax Administrator (“Administrator”), based on that abstract and other information available to the Administrator, has filed certain statistical and narrative reports with the Nebraska Tax Equalization and Review Commission (“Commission”) and further has certified the Administrator's opinion regarding the

level of value and the quality of assessment of real property in Banner County for tax year 2008, as required by Neb. Rev. Stat. §77-5027 (Cum. Supp. 2006).

II. REVIEW OF ASSESSMENT PRACTICES

The level of value for any class or subclass of real property is indicated by its median assessment-sales ratio unless that ratio is deemed unreliable, the sample from which the ratio is drawn is not representative of the class or subclass, or the level of value has been determined based on other generally accepted mass appraisal techniques

The uniformity and proportionality of assessments (the “quality” of assessments), under professionally accepted mass appraisal methods, are measured through the use of the Coefficient of Dispersion (“COD”) and the Price Related Differential (“PRD”).

III. APPLICABLE LAW

1. The Commission is required to meet annually to equalize the assessed value, special value or recapture value of all real property as submitted by the county assessors on the abstracts of assessment and equalize the values of real property which is valued by the state. Neb. Rev. Stat. §77-5022 (Cum. Supp. 2006).
2. The Commission is required to raise or lower the valuation of a class or subclass of real property as necessary to achieve equalization. Neb. Rev. Stat. §77-5027 (Cum. Supp. 2006).

3. To achieve equalization the Commission is required to increase or decrease the value of a class or subclass of real property in any county or taxing authority or of real property valued by the state so that all classes or subclasses of real property in all counties fall within an applicable acceptable range. Neb. Rev. Stat. §77-5023(1) (Supp. 2007).
4. An applicable acceptable range is the percentage of variation from a standard for valuation as measured by an established indicator of central tendency of assessment. Neb. Rev. Stat. §77-5023(2) (Supp. 2007).
5. The median has been adopted by Commission as the preferred established indicator of central tendency. 442, Neb. Admin. Code, ch 9, §004 (10/07).
6. The applicable acceptable ratio range for the median of the “Assessment-Sales Ratio” is from 69% to 75% of actual or fair market value for the class and subclasses of agricultural land and horticultural land not receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; 69% to 75% of special valuation and 69% to 75% of recapture valuation for the class and subclasses of agricultural land and horticultural land receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; and 92% to 100% of actual or fair market value for all other classes and subclasses of real property. Neb. Rev. Stat. §77-5023(2) (Supp. 2007).
7. Whether or not the level of value determined by the Commission falls within the applicable acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques. Neb. Rev. Stat. § 77-5023(5) (Supp. 2007).

8. If the Commission makes an initial determination that the level of value of a class or subclass of real property within a county fails to satisfy the requirements of section 77-5023, the Commission is required to issue a notice to the county for a hearing, on five days notice, at which legal representatives of the county and interested persons may show why an adjustment should not be made. Neb. Rev. Stat. §77-5026 (Supp. 2007).
9. Any increase or decrease of value shall cause the level of value determined by the commission to be at the midpoint of the applicable acceptable range. Neb. Rev. Stat. §77-5023(3) (Supp. 2007).
10. Any decrease or increase to a subclass of property shall also cause the level of value determined by the Commission for the class from which the subclass is drawn to be within the applicable acceptable range. Neb. Rev. Stat. §77-5023(4) (Supp. 2007).
11. An increase or decrease to the value of a class or subclass of real property in Banner County may only be made after a hearing held not less than five days after mailing notice of the hearing to the county clerk, county assessor, and the chairperson of the county board for Banner County unless notice is waived by a legal representative of the County. Neb. Rev. Stat. §77-5026 (Supp. 2007).
12. The appropriate COD range for the residential class and subclasses of real property is between 0 and 15 and the appropriate COD range for all other classes and subclasses of real property is between 0 and 20. 442 Neb. Admin. Code, ch 9, §005.02 (10/07).
13. The appropriate PRD range for all classes and subclasses of real property is between .98 and 1.03. 442 Neb. Admin. Code, ch 9, §005.03 (10/07).

**IV.
EVIDENCE BEFORE THE COMMISSION**

The Commission may consider and utilize the provisions of the Constitution of the United States, the Constitution of Nebraska, the laws of the United States, the laws of Nebraska, the Code of Federal Regulations, the Nebraska Administrative Code, any decision of the several courts of the United States or the State of Nebraska, and the legislative history of any law, rule, or regulation, without making the document a part of the record. The Commission may without inclusion in the record consider and utilize published treatises, periodicals, and reference works pertaining to the valuation or assessment of real or personal property or the meaning of words and phrases if the document is identified in the Commission's rules and regulations.

Neb. Rev. Stat. §77-5016(3) (Supp. 2007). The Commission pursuant to statute has identified various published treatises, periodicals and reference works for its consideration and utilization.

442 Neb. Admin. Code, ch 5, §32 (10/07). The Commission heard testimony and received exhibits. No information or evidence, except that permitted by law, may be considered.

Neb. Rev. Stat. §77-5016(3) (Supp. 2007). The Commission may evaluate the evidence presented utilizing its experience, technical competence, and specialized knowledge.

Neb. Rev. Stat. §77-5016(5) (Supp. 2007).

**V.
FINDINGS OF FACT**

The Commission finds and determines the following concerning classes and subclasses of real property in Banner County:

PROCEDURAL

1. A statistical and narrative report informing the Commission of the level of value and the quality of assessments of the classes and subclasses of real property for Banner County and certifying the opinion of the Property Tax Administrator regarding the level of value and the quality of assessment of real property in Banner County, for the tax year 2008 was timely received by the Commission. (E4).
2. The level of value for any class or subclass of real property is indicated by its median assessment-sales ratio unless that ratio is deemed unreliable, the sample from which it is drawn is not representative of the class or subclass, or the level of value has been determined by the Property Tax Administrator based on other generally accepted mass appraisal techniques.
3. The Commission's Order to Show Cause and Notice of Hearing dated April 17, 2008 proposing an adjustment to the level of value of real property in Banner County was mailed to the County Clerk, County Assessor, and Chairperson of the County Board for Banner County on April 17, 2008.
4. A hearing on the Commission's order proposing an adjustment was held on April 30, 2008.
5. Banner County entered its consent to the entry of an Order Adjusting Value in accordance with the Commission's Order To Show Cause and Notice of Hearing (E181)

RESIDENTIAL CLASS OF REAL PROPERTY AND ITS SUBCLASSES

6. The statistical studies for the residential class of real property are based on 6 sales of residential real property in a 2 year period. (E4:17). Those sales are insufficient to provide reliable statistical studies.
7. No increase or decrease by a percentage of the value of the residential class of real property or a subclass thereof is supported by clear and convincing evidence.

**COMMERCIAL CLASS OF REAL PROPERTY
AND ITS SUBCLASSES**

8. The statistical studies for the commercial class of real property are based on 0 sales of commercial real property in a 3 year period. (E4:37). Those sales are insufficient to provide reliable statistical studies.
9. No increase or decrease by a percentage of the value of the commercial class of real property or a subclass thereof is supported by clear and convincing evidence.

**AGRICULTURAL LAND AND HORTICULTURAL LAND
CLASS OF REAL PROPERTY
NOT RECEIVING SPECIAL VALUATION**

THE CLASS

10. The level of value indicated by the median for the agricultural land and horticultural land class of real property not receiving special valuation is 70% of actual or fair market value, the COD is 21.07, and the PRD is 107.21, as shown by the Reports and Opinions of the Property Tax Administrator. (E4:57).

11. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the agricultural land and horticultural land class of real property not receiving special valuation.
12. The level of value for the agricultural land and horticultural land class of real property not receiving special valuation as indicated by the median is within the applicable acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
13. The quality of assessment practices for the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate as shown by the COD.
14. The quality of assessment practices for the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate as shown by the PRD.
15. A measure of the quality of assessment practices for the class of agricultural land and horticultural land class of real property not receiving special valuation cannot be improved by a percentage adjustment to the level of value for the class of agricultural land and horticultural land class of real property not receiving special valuation as required by Neb. Rev. Stat. §77-5023 (Supp. 2007). An adjustment by a percentage to the level of value of a subclass of the agricultural land and horticultural land class of real property not receiving special valuation might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.

**Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class
of real property not receiving special valuation**

16. The level of value indicated by the median for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is 66.41% of actual or fair market value, the COD is 14.56, and the PRD is 99.15, as shown by the Reports and Opinions of the Property Tax Administrator. (E4:58).
17. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation.
18. The level of value for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is not within the applicable acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
19. The quality of the assessment practices for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is appropriate, as shown by the COD.
20. The quality of the assessment practices for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is appropriate, as shown by the PRD.
21. The level of value of the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation in the County fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2) (Supp. 2007).

22. An increase in the amount of 8.42% to all Dry Land In the agricultural and horticultural land class of real property not receiving special valuation must be made in order to bring the level of value indicated by the median for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation to the midpoint of the applicable acceptable range as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques as required by Neb. Rev. Stat. §77-5023 (Supp. 2007). (E134:5)
23. If an increase in the amount of 8.42% to all Dry Land in the agricultural and horticultural land class of real property not receiving special valuation is ordered, the level of value indicated by the median for the Majority Land Use 95% Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation will be 72% of actual or fair market value, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques the COD will be 14.56, and the PRD will be 99.15. (E134:2).
24. If the level of value is changed as found to be necessary, the level of value indicated by the median for the agricultural land and horticultural land class of real property not receiving special valuation will be 72% of actual or fair market value, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques the COD will be 20.72, and the PRD will be 108.24. (E134:1).

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over Banner County and the subject matter of this order.

2. An adjustment to the level of value of real property in Banner County is required by law.

**VII.
ORDER**

IT IS THEREFORE ORDERED THAT:

1. No adjustment by a percentage by the Commission shall be made to level of value for the residential class of real property in the County, or a subclass thereof, for tax year 2008.
2. No adjustment by a percentage by the Commission shall be made to the level of value for the commercial class of real property in the County, or a subclass thereof, for tax year 2008.
3. No adjustment by a percentage by the Commission shall be made to the level of value for the agricultural land and horticultural land class of real property not receiving special valuation in the County, excepting an adjustment to a subclass, for tax year 2008.
4. The level of value for the Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation in the County shall be adjusted by an increase in the amount of 8.42% so that the level of value indicated by the median of the subclass will be 72%. The ordered adjustment shall be applied to all agricultural land and horticultural land not receiving special valuation, land use dry, excluding improvements, as shown in the County's 2008 abstract of assessment.
5. These Findings and Orders shall be served on the Property Tax Administrator of the State of Nebraska via personal delivery, the Banner County Assessor via Certified United States Mail, return receipt requested, the Banner County Clerk, the Chairperson of the Banner County Board and the Banner County Attorney via First Class United States Mail

sufficient postage paid, on or before May 15, 2008, as required by

Neb. Rev. Stat. §77-5028 (Supp. 2007).

6. On or before June 5, 2008, the Banner County Assessor shall recertify the County Abstract of Assessment to the Property Tax Administrator, which Abstract shall reflect that the ordered adjustments have been made as required by Neb. Rev. Stat. §77-5029 (Cu. Supp. 2006).
7. The Property Tax Administrator shall audit the records of the Banner County Assessor to determine whether this Order was implemented, as required by Neb. Rev. Stat. §77-5029 (Cum. Supp. 2006).
8. On or before August 1, 2008, the Property Tax Administrator shall certify to the Commission that this Order either was or was not implemented by Banner County, as required by Neb. Rev. Stat. §77-5029 (Cum. Supp. 2006).
9. This order is effective the date it is signed and sealed.

SIGNED AND SEALED May 14, 2008.

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner

William C. Warnes, Commissioner

Seal

Wm. R. Wickersham, Commissioner